



GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

HOUSE BILL NO. 46

MONDAY, FEBRUARY 14, 2005

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT creating the Interstate Compact for Juveniles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 615.010 is repealed and reenacted to read as follows:

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. sec. 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(1) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(2) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(3) Return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(4) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

- 1 (5) Provide for the effective tracking and supervision of juveniles;
- 2 (6) Equitably allocate the costs, benefits, and obligations of the compacting states;
- 3 (7) Establish procedures to manage the movement between states of juvenile
4 offenders released to the community under the jurisdiction of courts, juvenile
5 departments, or any other criminal or juvenile justice agency which has
6 jurisdiction over juvenile offenders;
- 7 (8) Ensure immediate notice to jurisdictions where defined offenders are authorized
8 to travel or to relocate across state lines;
- 9 (9) Establish procedures to resolve pending charges (detainers) against juvenile
10 offenders prior to transfer or release to the community under the terms of this
11 compact;
- 12 (10) Establish a system of uniform data collection on information pertaining to
13 juveniles subject to this compact that allows access by authorized juvenile justice
14 and criminal justice officials, and regular reporting of compact activities to heads
15 of state executive, judicial, and legislative branches and juvenile and criminal
16 justice administrators;
- 17 (11) Monitor compliance with rules governing interstate movement of juveniles and
18 initiate interventions to address and correct noncompliance;
- 19 (12) Coordinate training and education regarding the regulation of interstate
20 movement of juveniles for officials involved in such activity; and
- 21 (13) Coordinate the implementation and operation of the compact with the Interstate
22 Compact for the Placement of Children, the Interstate Compact for Adult
23 Offender Supervision and other compacts affecting juveniles, particularly in
24 those cases where concurrent or overlapping supervision issues arise. It is the
25 policy of the compacting states that the activities conducted by the Interstate
26 Commission created herein are the formation of public policies and therefore are
27 public business. Furthermore, the compacting states shall cooperate and observe

their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(1) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

(2) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(3) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(4) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(5) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

(6) "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact.

(7) "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.

1 (8) "Juvenile" means any person defined as a juvenile in any member state or by the
 2 rules of the Interstate Commission, including:

3 (a) Accused delinquent - a person charged with an offense that, if committed by
 4 an adult, would be a criminal offense;

5 (b) Adjudicated delinquent - a person found to have committed an offense that,
 6 if committed by an adult, would be a criminal offense;

7 (c) Accused status offender - a person charged with an offense that would not
 8 be a criminal offense if committed by an adult;

9 (d) Adjudicated status offender - a person found to have committed an offense
 10 that would not be a criminal offense if committed by an adult; and

11 (e) Non-offender - a person in need of supervision who has not been accused or
 12 adjudicated a status offender or delinquent.

13 (9) "Noncompacting state" means any state which has not enacted the enabling
 14 legislation for this compact.

15 (10) "Probation or Parole" means any kind of supervision or conditional release of
 16 juveniles authorized under the law of the compacting states.

17 (11) "Rule" means a written statement by the Interstate Commission promulgated
 18 pursuant to Article VI of this compact that is of general applicability, implements,
 19 interprets or prescribes a policy or provision of the compact, or an organizational,
 20 procedural, or practice requirement of the Commission, and has the force and
 21 effect of statutory law in a compacting state, and includes the amendment, repeal,
 22 or suspension of an existing rule.

23 (12) "State" means a state of the United States, the District of Columbia or its
 24 designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
 25 American Samoa, and the Northern Marianas Islands.

26 ARTICLE III

27 INTERSTATE COMMISSION FOR JUVENILES

1 (1) The compacting states hereby create the "Interstate Commission for Juveniles."

2 The commission shall be a body corporate and joint agency of the compacting
 3 states. The commission shall have all the responsibilities, powers and duties set
 4 forth herein, and such additional powers as may be conferred upon it by
 5 subsequent action of the respective legislatures of the compacting states in
 6 accordance with the terms of this compact.

7 (2) The Interstate Commission shall consist of commissioners appointed by the
 8 appropriate appointing authority in each state pursuant to the rules and
 9 requirements of each compacting state and in consultation with the State Council
 10 for Interstate Juvenile Supervision created hereunder. The commissioner shall be
 11 the compact administrator, deputy compact administrator or designee from that
 12 state who shall serve on the Interstate Commission in such capacity under or
 13 pursuant to the applicable law of the compacting state.

14 (3) In addition to the commissioners who are the voting representatives of each state,
 15 the Interstate Commission shall include individuals who are not commissioners,
 16 but who are members of interested organizations. Such noncommissioner
 17 members must include a member of the national organizations of governors,
 18 legislators, state chief justices, attorneys general, Interstate Compact for Adult
 19 Offender Supervision, Interstate Compact for the Placement of Children, juvenile
 20 justice and juvenile corrections officials, and crime victims. All noncommissioner
 21 members of the Interstate Commission shall be ex officio nonvoting members.
 22 The Interstate Commission may provide in its by-laws for such additional ex
 23 officio nonvoting members, including members of other national organizations,
 24 in such numbers as shall be determined by the commission.

25 (4) Each compacting state represented at any meeting of the commission is entitled
 26 to one (1) vote. A majority of the compacting states shall constitute a quorum for
 27 the transactions of business, unless a larger quorum is required by the by-laws of

1 the Interstate Commission.

2 (5) The commission shall meet at least once each calendar year. The chairperson
 3 may call additional meetings and, upon the request of a simple majority of the
 4 compacting states, shall call additional meetings. Public notice shall be given of
 5 all meetings and meetings shall be open to the public.

6 (6) The Interstate Commission shall establish an executive committee, which shall
 7 include commission officers, members, and others as determined by the by-laws.
 8 The executive committee shall have the power to act on behalf of the Interstate
 9 Commission during periods when the Interstate Commission is not in session,
 10 with the exceptions of rulemaking and amendment to the compact. The executive
 11 committee shall oversee the day-to-day activities of the administration of the
 12 compact managed by an executive director and Interstate Commission staff;
 13 administer enforcement and compliance with the provisions of the compact, its
 14 by-laws, and rules; and perform such other duties as directed by the Interstate
 15 Commission or set forth in the by-laws.

16 (7) Each member of the Interstate Commission shall have the right and power to cast
 17 a vote to which that compacting state is entitled and to participate in the business
 18 and affairs of the Interstate Commission. A member shall vote in person and
 19 shall not delegate a vote to another compacting state. However, a commissioner,
 20 in consultation with the state council, shall appoint another authorized
 21 representative, in the absence of the commissioner from that state, to cast a vote
 22 on behalf of the compacting state at a specified meeting. The by-laws may provide
 23 for members' participation in meetings by telephone or other means of
 24 telecommunication or electronic communication.

25 (8) The Interstate Commission's by-laws shall establish conditions and procedures
 26 under which the Interstate Commission shall make its information and official
 27 records available to the public for inspection or copying. The Interstate

1 Commission may exempt from disclosure any information or official records to
 2 the extent they would adversely affect personal privacy rights or proprietary
 3 interests.

4 (9) Public notice shall be given of all meetings and all meetings shall be open to the
 5 public, except as set forth in the rules or as otherwise provided in the compact.

6 The Interstate Commission and any of its committees may close a meeting to the
 7 public where it determines by two-thirds (2/3) vote that an open meeting would be
 8 likely to:

9 (a) Relate solely to the Interstate Commission's internal personnel practices
 10 and procedures;

11 (b) Disclose matters specifically exempted from disclosure by statute;

12 (c) Disclose trade secrets or commercial or financial information which is
 13 privileged or confidential;

14 (d) Involve accusing any person of a crime, or formally censuring any person;

15 (e) Disclose information of a personal nature where disclosure would
 16 constitute a clearly unwarranted invasion of personal privacy;

17 (f) Disclose investigative records compiled for law enforcement purposes;

18 (g) Disclose information contained in or related to examination, operating, or
 19 condition reports prepared by, or on behalf of or for the use of, the
 20 Interstate Commission with respect to a regulated person or entity for the
 21 purpose of regulation or supervision of such person or entity;

22 (h) Disclose information, the premature disclosure of which would significantly
 23 endanger the stability of a regulated person or entity; or

24 (i) Specifically relate to the Interstate Commission's issuance of a subpoena, or
 25 its participation in a civil action or other legal proceeding.

26 (10) For every meeting closed pursuant to this provision, the Interstate Commission's
 27 legal counsel shall publicly certify that, in the legal counsel's opinion, the

1 meeting may be closed to the public, and shall reference each relevant exemptive
 2 provision. The Interstate Commission shall keep minutes which shall fully and
 3 clearly describe all matters discussed in any meeting and shall provide a full and
 4 accurate summary of any actions taken, and the reasons therefore, including a
 5 description of each of the views expressed on any item and the record of any roll
 6 call vote (reflected in the vote of each member on the question). All documents
 7 considered in connection with any action shall be identified in such minutes.

8 (11) The Interstate Commission shall collect standardized data concerning the
 9 interstate movement of juveniles as directed through its rules which shall specify
 10 the data to be collected, the means of collection, and data exchange and reporting
 11 requirements. Such methods of data collection, exchange, and reporting shall
 12 insofar as is reasonably possible conform to up-to-date technology and
 13 coordinate its information functions with the appropriate repository of records.

14 ARTICLE IV

15 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

16 The commission shall have the following powers and duties:

17 (1) To provide for dispute resolution among compacting states.

18 (2) To promulgate rules to effect the purposes and obligations as enumerated in this
 19 compact, which shall have the force and effect of statutory law and shall be
 20 binding in the compacting states to the extent and in the manner provided in this
 21 compact.

22 (3) To oversee, supervise, and coordinate the interstate movement of juveniles subject
 23 to the terms of this compact and any by-laws adopted and rules promulgated by
 24 the Interstate Commission.

25 (4) To enforce compliance with the compact provisions, the rules promulgated by the
 26 Interstate Commission, and the by-laws, using all necessary and proper means,
 27 including but not limited to the use of judicial process.

- 1 (5) To establish and maintain offices which shall be located within one (1) or more
2 of the compacting states.
- 3 (6) To purchase and maintain insurance and bonds.
- 4 (7) To borrow, accept, hire, or contract for services of personnel.
- 5 (8) To establish and appoint committees and hire staff which it deems necessary for
6 the carrying out of its functions, including but not limited to an executive
7 committee as required by Article III, which shall have the power to act on behalf
8 of the Interstate Commission in carrying out its powers and duties hereunder.
- 9 (9) To elect or appoint such officers, attorneys, employees, agents, or consultants,
10 and to fix their compensation, define their duties, and determine their
11 qualifications; and to establish the Interstate Commission's personnel policies
12 and programs relating to, inter alia, conflicts of interest, rates of compensation,
13 and qualifications of personnel.
- 14 (10) To accept any and all donations and grants of money, equipment, supplies,
15 materials, and services, and to receive, utilize, and dispose of it.
- 16 (11) To lease, purchase, accept contributions or donations of, or otherwise to own,
17 hold, improve, or use any property, real, personal, or mixed.
- 18 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
19 of any property, real, personal, or mixed.
- 20 (13) To establish a budget and make expenditures and levy dues as provided in Article
21 VIII of this compact.
- 22 (14) To sue and be sued.
- 23 (15) To adopt a seal and by-laws governing the management and operation of the
24 Interstate Commission.
- 25 (16) To perform such functions as may be necessary or appropriate to achieve the
26 purposes of this compact.
- 27 (17) To report annually to the legislatures, governors, judiciary, and state councils of

the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(18) To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

(19) To establish uniform standards of the reporting, collecting, and exchanging of data.

(20) The Interstate Commission shall maintain its corporate books and records in accordance with the by-laws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. By-laws

(1) The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

(a) Establishing the fiscal year of the Interstate Commission;

(b) Establishing an executive committee and such other committees as may be necessary;

(c) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

(d) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

(e) Establishing the titles and responsibilities of the officers of the Interstate Commission;

1 (f) Providing a mechanism for concluding the operations of the Interstate
 2 Commission and the return of any surplus funds that may exist upon the
 3 termination of the compact after the payment or reserving of all of its debts
 4 and obligations;

5 (g) Providing "start-up" rules for initial administration of the compact; and

6 (h) Establishing standards and procedures for compliance and technical
 7 assistance in carrying out the compact.

8 Section B. Officers and Staff

9 (1) The Interstate Commission shall, by a majority of the members, elect annually
 10 from among its members a chairperson and a vice chairperson, each of whom
 11 shall have such authority and duties as may be specified in the by-laws. The
 12 chairperson or, in the chairperson's absence or disability, the vice-chairperson
 13 shall preside at all meetings of the Interstate Commission. The officers so elected
 14 shall serve without compensation or remuneration from the Interstate
 15 Commission; provided that, subject to the availability of budgeted funds, the
 16 officers shall be reimbursed for any ordinary and necessary costs and expenses
 17 incurred by them in the performance of their duties and responsibilities as
 18 officers of the Interstate Commission.

19 (2) The Interstate Commission shall, through its executive committee, appoint or
 20 retain an executive director for such period, upon such terms and conditions and
 21 for compensation as the Interstate Commission may deem appropriate. The
 22 executive director shall serve as secretary to the Interstate Commission, but shall
 23 not be a member and shall hire and supervise such other staff as may be
 24 authorized by the Interstate Commission.

25 Section C. Qualified Immunity, Defense, and Indemnification

26 (1) The Commission's executive director and employees shall be immune from suit
 27 and liability, either personally or in their official capacity, for any claim for

damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the

Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(2) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the Constitution of the United States, as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

(3) When promulgating a rule, the Interstate Commission shall, at a minimum:

(a) Publish the proposed rule's entire text stating the reasons for that proposed rule;

(b) Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and be made publicly available;

1 (c) Provide an opportunity for an informal hearing if petitioned by ten (10) or
 2 more persons; and

3 (d) Promulgate a final rule and its effective date, if appropriate, based on input
 4 from state or local officials, or interested parties.

5 (4) Allow, not later than sixty (60) days after a rule is promulgated, any interested
 6 person to file a petition in the United States District Court for the District of
 7 Columbia or in the Federal District Court where the Interstate Commission's
 8 principal office is located for judicial review of such rule. If the court finds that
 9 the Interstate Commission's action is not supported by substantial evidence in the
 10 rulemaking record, the court shall hold the rule unlawful and set it aside. For
 11 purposes of this subsection, evidence is substantial if it would be considered
 12 substantial evidence under the Model State Administrative Procedures Act.

13 (5) If a majority of the legislatures of the compacting states rejects a rule, those
 14 states may, by enactment of a statute or resolution in the same manner used to
 15 adopt the compact, cause that such rule shall have no further force and effect in
 16 any compacting state.

17 (6) The existing rules governing the operation of the Interstate Compact on
 18 Juveniles superseded by this compact shall be null and void twelve (12) months
 19 after the first meeting of the Interstate Commission created hereunder.

20 (7) Upon determination by the Interstate Commission that a state-of-emergency
 21 exists, it may promulgate an emergency rule which shall become effective
 22 immediately upon adoption, provided that the usual rulemaking procedures
 23 provided hereunder shall be retroactively applied to said rule as soon as
 24 reasonably possible, but no later than ninety (90) days after the effective date of
 25 the emergency rule.

26 ARTICLE VII

27 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE

INTERSTATE COMMISSION

Section A. Oversight

(1) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

(1) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact, as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

(2) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the

1 compacting states.

2 (3) The Interstate Commission, in the reasonable exercise of its discretion, shall
 3 enforce the provisions and rules of this compact using any or all means set forth
 4 in Article XI of this compact.

5 ARTICLE VIII

6 FINANCE

7 (1) The Interstate Commission shall pay or provide for the payment of the reasonable
 8 expenses of its establishment, organization, and ongoing activities.

9 (2) The Interstate Commission shall levy on and collect an annual assessment from
 10 each compacting state to cover the costs of the internal operations and activities
 11 of the Interstate Commission and its staff, which must be in a total amount
 12 sufficient to cover the Interstate Commission's annual budget as approved each
 13 year. The aggregate annual assessment amount shall be allocated based upon a
 14 formula to be determined by the Interstate Commission, taking into consideration
 15 the population of each compacting state and the volume of interstate movement
 16 of juveniles in each compacting state and shall promulgate a rule binding upon
 17 all compacting states which governs said assessment.

18 (3) The Interstate Commission shall not incur any obligations of any kind prior to
 19 securing the funds adequate to meet the same; nor shall the Interstate
 20 Commission pledge the credit of any of the compacting states, except by and with
 21 the authority of the compacting state.

22 (4) The Interstate Commission shall keep accurate accounts of all receipts and
 23 disbursements. The receipts and disbursements of the Interstate Commission
 24 shall be subject to the audit and accounting procedures established under its by-
 25 laws. However, all receipts and disbursements of funds handled by the Interstate
 26 Commission shall be audited yearly by a certified or licensed public accountant
 27 and the report of the audit shall be included in and become part of the annual

report of the Interstate Commission.

ARTICLE IX

THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision.

While each state may determine the membership of its own state council, its membership shall include at least one (1) representative from:

(1) The legislative branch of government;

(2) The judicial branch of government;

(3) The executive branch of government;

(4) Victims groups;

(5) The Department for Public Advocacy;

(6) The Kentucky Association of Criminal Defense Lawyers;

(7) The County Attorneys Association;

(8) The Commonwealth's Attorneys Association; and

(9) The compact administrator, deputy compact administrator, or designee.

Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(1) Any state, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five (35) of the states. The initial effective date shall be the later of July 1, 2006, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(3) The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any

1 obligations, the performance of which extend beyond the effective date of
 2 withdrawal.

3 (5) Reinstatement following withdrawal of any compacting state shall occur upon the
 4 withdrawing state reenacting the compact, or upon such later date as determined
 5 by the Interstate Commission.

6 Section B. Technical Assistance, Fines, Suspension, Termination, and Default

7 (1) If the Interstate Commission determines that any compacting state has at any
 8 time defaulted in the performance of any of its obligations or responsibilities
 9 under this compact, or the by-laws or duly promulgated rules, the Interstate
 10 Commission may impose any or all of the following penalties:

11 (a) Remedial training and technical assistance as directed by the Interstate
 12 Commission;

13 (b) Alternative Dispute Resolution;

14 (c) Fines, fees, and costs in amounts as are deemed to be reasonable as fixed by
 15 the Interstate Commission; and

16 (d) Suspension or termination of membership in the compact, which shall be
 17 imposed only after all other reasonable means of securing compliance
 18 under the by-laws and rules have been exhausted and the Interstate
 19 Commission has therefore determined that the offending state is in default.
 20 Immediate notice of suspension shall be given by the Interstate Commission
 21 to the Governor, the Chief Justice or the Chief Judicial Officer of the state,
 22 the majority and minority leaders of the defaulting state's legislature, and
 23 the state council. The grounds for default include, but are not limited to,
 24 failure of a compacting state to perform such obligations or responsibilities
 25 imposed upon it by this compact, the by-laws, or duly promulgated rules and
 26 any other grounds designated in commission by-laws and rules. The
 27 Interstate Commission shall immediately notify the defaulting state in

writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(2) Within sixty (60) days of the effective date of termination of a defaulting state, the commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

(3) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations, the performance of which extends beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event

judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one (1) compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

(1) All lawful actions of the Interstate Commission, including all rules and by-laws

1 promulgated by the Interstate Commission, are binding upon the compacting
 2 states.

3 (2) All agreements between the Interstate Commission and the compacting states are
 4 binding in accordance with their terms.

5 (3) Upon the request of a party to a conflict over meaning or interpretation of
 6 Interstate Commission actions, and upon a majority vote of the compacting
 7 states, the Interstate Commission may issue advisory opinions regarding such
 8 meaning or interpretation.

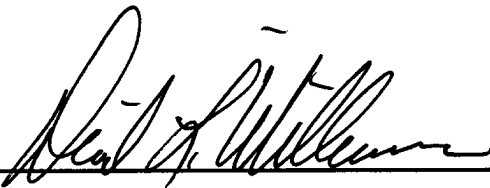
9 (4) In the event any provision of this compact exceeds the constitutional limits
 10 imposed on the legislature of any compacting state, the obligations, duties,
 11 powers, or jurisdiction sought to be conferred by such provision upon the
 12 Interstate Commission shall be ineffective and such obligations, duties, powers,
 13 or jurisdiction shall remain in the compacting state and shall be exercised by the
 14 agency thereof to which such obligations, duties, powers, or jurisdiction are
 15 delegated by law in effect at the time this compact becomes effective.

16 Section 2. The following KRS section is repealed:

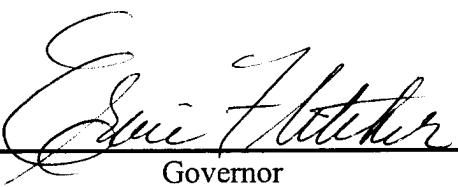
17 615.020 Duties of compact administrator.

18 Section 3. This Act takes effect as provided in Article X of Section 1 of this Act,
 19 upon the legislative enactment of the compact into law by no less than thirty-five (35)
 20 states or upon July 1, 2006, whichever is later. Until such time, KRS 615.010 and
 21 615.020 shall remain in effect.


Speaker-House of Representatives


President of the Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 